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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,022	11/13/2001	Kirstan Anderson Vandersluis	XAW-0101C	1491

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LAW OFFICE OF DALE B. HALLING, LLC  
655 SOUTHPOINTE COURT, SUITE 100  
COLORADO SPRINGS, CO 80906

EXAMINER

JUNG, DAVID YIUK

ART UNIT PAPER NUMBER

2134

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/011,022

Applicant(s)

VANDERSLUIS, KIRSTAN  
ANDERSON

Examiner

David Y. Jung

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **CLAIMS PRESENTED**

Claims 16-38 are presented.

### ***Response to Arguments***

In the previous Office Action, Applicant has been asked to identify the meaning of what Applicant means by “document definition file” and “hierarchical.” Despite Applicant’s efforts, these issues of meaning are still not completely resolved. Thus, the rejections are not made final. Instead, Applicant is requested to answer the following issues that have now come up.

(1) On the issue of “document definition file”, is Applicant trying to assert that this is different from a “document type definition file”? The very word “XML” implies a set of ancillary meanings that are common to those of the art – such as “document definition file.” Document definition file is used in conjunction with XML and document type definition so as to extract information. The arguments of the outstanding Response (such as at page 7 of the Remarks) do not seem to deviate from the standard meaning of XML.

(2) On the issue of “hierarchical”, is Applicant trying to assert that this is different from standard XML tree node structure, such as found in DOM usage? Again, the very word “XML” implies a set of ancillary meanings that are common to those of the art – such as “XML tree.” The arguments of the outstanding Response (such as at page 7 of

the Remarks) do not seem to deviate from the standard meaning of XML or DOM (which is, of course, highly identified with Windows).

(3) On the issue of “user-defined”, is Applicant trying to assert that this is different from standard XML? XML permits more user-definition than its predecessor languages. Indeed, this is why it is called XML (extensible). The arguments of the outstanding Response (such as at page 7 of the Remarks) do not seem to deviate from the standard meaning of XML.

(4) On the issue of the references (which, among others, are used to refer to standard XML) teaching these features, is Applicant trying to assert that the claimed invention is different from standard XML? If not, is Applicant is asserting that the date of the claimed invention is earlier than that of XML?

Because of the situation, Applicant is respectfully referred to the XML standards themselves. The Office believes that this is not a new prior art because XML was already discussed by Applicant himself. Furthermore, Applicant certainly does not assert that XML standard itself is anything other than notoriously well known to those of the art. In addition, Applicant is referred to

[http://www.xmlfiles.com/dom/dom\\_access.asp](http://www.xmlfiles.com/dom/dom_access.asp) and US Patent 6,898,761 (Johnson).

[http://www.xmlfiles.com/dom/dom\\_access.asp](http://www.xmlfiles.com/dom/dom_access.asp), which is a beginner’s tutorial describing very common knowledge and is not intended to be a treatise for experts, shows how XML trees (hierarchical) are used in a typical DOM usage (which, of course, is highly identified with Windows). Johnson shows how “document data file” and “document data type” imply each other in XML usage. These references are used merely for the

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purpose of discussion of the meaning of Applicant's terms and not for the purpose of presenting them as prior art. Thus, the date of these references should not be material. The Office hopes that Applicant, with these references, will be able to amend the claims or otherwise explain the terms of the claims.

## **CLAIM REJECTIONS**

The claim rejections remain as in the previous Office Action.

### ***Conclusion***

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

### ***Points of Contact***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

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Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Greg Morse whose telephone number is (571) 272-3838.

David Jung

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Patent Examiner

11/14/05

A handwritten signature in black ink, consisting of a large loop followed by a series of connected, slightly wavy lines extending to the right.